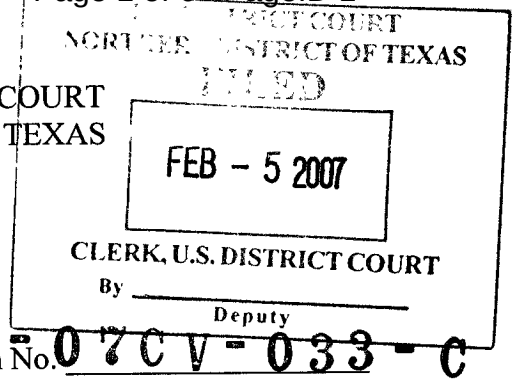


IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
ABILENE DIVISION



JANELLE ARRENDELL,  
Plaintiff,

VS.

UNITED PARCEL SERVICE, INC.,  
Defendant.

§  
§  
§  
§  
§  
§

Civil Action No. **1-07CV-033-C**

**COMPLAINT**

NOW COMES plaintiff Janelle Arrendell and files this original Complaint complaining of United Parcel Service, Inc. ("UPS"), and states the following:

**I. PARTIES**

1. Plaintiff resides at 501 Portland, Abilene, Texas 79605.
2. UPS is an Ohio corporation headquartered in Atlanta, Georgia. It may be served with process by serving its registered agent for service of process, CT Corporation System, 1021 Main Street, Suite 1150, Houston, Texas 77002.

**II. JURISDICTION**

3. The court has jurisdiction over the lawsuit because it arises under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-3(a).

**III. EXHAUSTION OF ADMINISTRATIVE PROCEDURES**

4. Plaintiff timely filed a charge of discrimination with the EEOC, EEOC Charge No. 31C-2006-00931, in which she alleged that she had been retaliated against by UPS because she had complained of racial and gender discrimination in the workplace. The EEOC attempted unsuccessfully to conciliate the charge of discrimination through voluntary resolution, and

subsequently issued a Dismissal and Notice of Right to File a Civil Action dated December 8, 2006.

5. All conditions precedent to the filing of this suit have been performed or have occurred.

#### **IV. STATEMENT OF CLAIM**

6. Plaintiff is an employee within the meaning of Title VII, 42 U.S.C. § 2000e(f), and belongs to a class protected under the Act, namely a black female and a person who has opposed a practice made an unlawful employment practice under the Act.

7. UPS is an employer within the meaning of Title VII, 42 U.S.C. § 2000e(b).

8. UPS has discriminated against plaintiff in violation of § 704(a) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-3(a). Plaintiff started with UPS as a part-time employee at UPS's Abilene facility in September 2004. In February 2005, she was promoted to the position of part-time supervisor. In the fall of 2005, plaintiff began to perceive that she was being discriminated against by UPS's Abilene management group on the basis of her race and gender. Plaintiff communicated her concerns regarding how she was being treated to UPS's Oklahoma City management group in October 2005. She subsequently complained about another black UPS employees being referred to as "Buckwheat." On or about February 7, 2006, Sanda Harker, a "security investigator" from UPS's Oklahoma City office, interrogated plaintiff about alleged irregularities regarding how plaintiff recorded her work hours. Unbeknownst to plaintiff at the time, Ms. Harker's investigation was initiated after UPS's Abilene management had reported to upper management that plaintiff was over-reporting the number of hours she was working. Internal communications discovered subsequently reflect that on or about February 2, 2006, Coby Ford wrote to Larry Slough, the Abilene manger, and Arnett McClure, plaintiff's immediate supervisor, stating:

How are we to handle this situation with Janelle? I will commit to doing a write up on her asap. Contacts in the Oklahoma office have been made and she will be dealt with next week. We should have thought of this sooner. I am working on a request for disciplinary action on Janelle.

(rough draft-of course I can't say what I want to say)

Please get back with me on this guys.

The sooner we handle this problem, the better our jobs will be once again.

Hey Arnett, Don't worry about the racial remarks made, she cant' prove it.

Larry, you have my word I will take care of this.

Coby

On or about February 2, 2006, Larry Slough responded to Mr. Ford, stating:

Let's go ahead and complete the disciplinary action form on Janelle. Is this the first write up on Janelle since her hire date? I believe it will be

If so, we need to be sure to complete and file for future situations.

Have you spoken to anyone other than myself and Arnett about this?

Don't

I have spoken to Arnett and we have discussed this matter in detail.

He will be on vacation. I told him not to worry about this.

As you stated she sincerely needs to be dealt with. This matter of discrimination is absurd. Arnett explained the racial remark to me - you're right she can't prove it.

Just between us the bitch is crazy.

I will request that Janelle be terminated from her position.

## **V. CONSTRUCTIVE DISCHARGE**

9. Upon learning that Messrs. Ford, McClure and Slough had conspired to retaliate against her because she had complained about how she and others were being treated, plaintiff became physically ill and was unable to continue her employment with UPS. Plaintiff tendered her resignation on or about March 1, 2006.

## **VI. DAMAGES**

10. Plaintiff suffered the following injuries as a direct and proximate result of defendant's conduct:

- a) plaintiff incurred a loss of earnings after she was constructively discharged from her employment with UPS; and

b) Plaintiff suffered mental anguish and emotional distress.

11. Plaintiff would show that she is entitled to punitive damages pursuant to 42 U.S.C. §1981a(3)(b) because UPS, by and through Messrs. Ford, McClure and Slough, maliciously engaged in discriminatory practices, including retaliation, with the intent to injure plaintiff and violate her federally protected rights.

#### **VII. ATTORNEY'S FEES**

12. Plaintiff is entitled to an award of attorney's fees and costs under Title VII, 42 U.S.C. §2000e5(k).

#### **VIII. JURY DEMAND**

13. Plaintiff hereby demands a trial by jury of all issues so triable pursuant to Rule 38 of the Federal Rules of Civil Procedure and §102 of the Civil Rights Act of 1991, 42 U.S.C. §1981a.

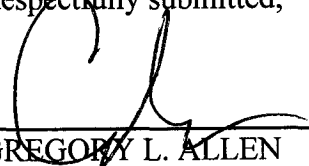
#### **IX. PRAYER**

14. For these reasons, plaintiff asks for judgment against defendant for:

- (a) back pay, front pay, compensatory damages and punitive damages as would fully compensate plaintiff and deter future discriminatory acts and practices;
- (b) an award of attorney's fees and costs;
- (c) pre- and post judgment interest as allowed by law; and
- (d) all other relief the Court deems appropriate.

DATED this 5th day of February, 2007.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'G. Allen', is written over a horizontal line.

GREGORY L. ALLEN  
State Bar No. 01033350  
Asbury & Asbury, L.L.P.  
534 Pine Street, Suite 102  
Abilene, Texas 79602  
Telephone: (325) 673-7141  
Telecopier: (325) 673-7258

ATTORNEYS FOR PLAINTIFF

**CIVIL COVER SHEET 1. - 07CV-033 - C**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

|  |   |
|--|---|
| <b>I. (a) PLAINTIFFS</b><br>JANELLE ARRENDELL  | <b>DEFENDANTS</b><br>UNITED PARCEL SERVICE, INC.  |
| <b>(b)</b> County of Residence of First Listed Plaintiff <u>TAYLOR</u><br>(EXCEPT IN U.S. PLAINTIFF CASES)   | County of Residence of First Listed Defendant _____<br>(IN U.S. PLAINTIFF CASES ONLY)<br>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED. |
| <b>(c)</b> Attorney's (Firm Name, Address, and Telephone Number)<br>Gregory L. Allen, Asbury & Asbury, L.L.P., 534 Pine Street, Suite 102,<br>Abilene, Texas 79601, (325) 673-7141 | Attorneys (If Known)<br>Shannon Schmoyer, Akin Gump Strauss Hauer & Feld, 300 Convent,<br>Suite 1500, San Antonio TX 78205 (210) 281-7051                         |

| <b>II. BASIS OF JURISDICTION</b> (Place an "X" in One Box Only)  | <b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> (Place an "X" in One Box for Plaintiff and One Box for Defendant)  |                            |   |                            |                            |     |     |                       |                            |                            |   |                            |                            |                          |                            |                            |   |                            |                            |   |                            |                            |                |                            |                            |
|--|---|----------------------------|---|----------------------------|----------------------------|-----|-----|-----------------------|----------------------------|----------------------------|---|----------------------------|----------------------------|--------------------------|----------------------------|----------------------------|---|----------------------------|----------------------------|---|----------------------------|----------------------------|----------------|----------------------------|----------------------------|
| <input type="checkbox"/> 1 U.S. Government Plaintiff<br><input type="checkbox"/> 2 U.S. Government Defendant<br><input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)<br><input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III) | <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th></th> <th>PTF</th> <th>DEF</th> <th></th> <th>PTF</th> <th>DEF</th> </tr> <tr> <td>Citizen of This State</td> <td><input type="checkbox"/> 1</td> <td><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business In This State</td> <td><input type="checkbox"/> 4</td> <td><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2</td> <td><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td><input type="checkbox"/> 5</td> <td><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3</td> <td><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td><input type="checkbox"/> 6</td> <td><input type="checkbox"/> 6</td> </tr> </table> |                            | PTF   | DEF                        |                            | PTF | DEF | Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 | Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 | Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |
|  | PTF   | DEF                        |   | PTF                        | DEF                        |     |     |                       |                            |                            |   |                            |                            |                          |                            |                            |   |                            |                            |   |                            |                            |                |                            |                            |
| Citizen of This State  | <input type="checkbox"/> 1  | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |     |     |                       |                            |                            |   |                            |                            |                          |                            |                            |   |                            |                            |   |                            |                            |                |                            |                            |
| Citizen of Another State   | <input type="checkbox"/> 2  | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |     |     |                       |                            |                            |   |                            |                            |                          |                            |                            |   |                            |                            |   |                            |                            |                |                            |                            |
| Citizen or Subject of a Foreign Country  | <input type="checkbox"/> 3  | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |     |     |                       |                            |                            |   |                            |                            |                          |                            |                            |   |                            |                            |   |                            |                            |                |                            |                            |

| IV. NATURE OF SUIT (Place an "X" in One Box Only)   |  |   |  |   |
|---|--|---|--|---|
| <b>CONTRACT</b><br><input type="checkbox"/> 110 Insurance<br><input type="checkbox"/> 120 Marine<br><input type="checkbox"/> 130 Miller Act<br><input type="checkbox"/> 140 Negotiable Instrument<br><input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment<br><input type="checkbox"/> 151 Medicare Act<br><input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)<br><input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits<br><input type="checkbox"/> 160 Stockholders' Suits<br><input type="checkbox"/> 190 Other Contract<br><input type="checkbox"/> 195 Contract Product Liability<br><input type="checkbox"/> 196 Franchise | <b>TORTS</b><br><b>PERSONAL INJURY</b><br><input type="checkbox"/> 310 Airplane<br><input type="checkbox"/> 315 Airplane Product Liability<br><input type="checkbox"/> 320 Assault, Libel & Slander<br><input type="checkbox"/> 330 Federal Employers' Liability<br><input type="checkbox"/> 340 Marine<br><input type="checkbox"/> 345 Marine Product Liability<br><input type="checkbox"/> 350 Motor Vehicle<br><input type="checkbox"/> 355 Motor Vehicle Product Liability<br><input type="checkbox"/> 360 Other Personal Injury<br><b>PERSONAL INJURY</b><br><input type="checkbox"/> 362 Personal Injury - Med. Malpractice<br><input type="checkbox"/> 365 Personal Injury - Product Liability<br><input type="checkbox"/> 368 Asbestos Personal Injury Product Liability<br><b>PERSONAL PROPERTY</b><br><input type="checkbox"/> 370 Other Fraud<br><input type="checkbox"/> 371 Truth in Lending<br><input type="checkbox"/> 380 Other Personal Property Damage<br><input type="checkbox"/> 385 Property Damage Product Liability | <b>FORFEITURE/PENALTY</b><br><input type="checkbox"/> 610 Agriculture<br><input type="checkbox"/> 620 Other Food & Drug<br><input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881<br><input type="checkbox"/> 630 Liquor Laws<br><input type="checkbox"/> 640 R.R. & Truck<br><input type="checkbox"/> 650 Airline Regs.<br><input type="checkbox"/> 660 Occupational Safety/Health<br><input type="checkbox"/> 690 Other<br><b>LABOR</b><br><input type="checkbox"/> 710 Fair Labor Standards Act<br><input type="checkbox"/> 720 Labor/Mgmt. Relations<br><input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act<br><input type="checkbox"/> 740 Railway Labor Act<br><input type="checkbox"/> 790 Other Labor Litigation<br><input type="checkbox"/> 791 Empl. Ret. Inc. Security Act | <b>BANKRUPTCY</b><br><input type="checkbox"/> 422 Appeal 28 USC 158<br><input type="checkbox"/> 423 Withdrawal 28 USC 157<br><b>PROPERTY RIGHTS</b><br><input type="checkbox"/> 820 Copyrights<br><input type="checkbox"/> 830 Patent<br><input type="checkbox"/> 840 Trademark<br><b>SOCIAL SECURITY</b><br><input type="checkbox"/> 861 HIA (1395ff)<br><input type="checkbox"/> 862 Black Lung (923)<br><input type="checkbox"/> 863 DIWC/DIWW (405(g))<br><input type="checkbox"/> 864 SSID Title XVI<br><input type="checkbox"/> 865 RSI (405(g))<br><b>FEDERAL TAX SUITS</b><br><input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)<br><input type="checkbox"/> 871 IRS—Third Party 26 USC 7609 | <b>OTHER STATUTES</b><br><input type="checkbox"/> 400 State Reapportionment<br><input type="checkbox"/> 410 Antitrust<br><input type="checkbox"/> 430 Banks and Banking<br><input type="checkbox"/> 450 Commerce<br><input type="checkbox"/> 460 Deportation<br><input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations<br><input type="checkbox"/> 480 Consumer Credit<br><input type="checkbox"/> 490 Cable/Sat TV<br><input type="checkbox"/> 810 Selective Service<br><input type="checkbox"/> 850 Securities/Commodities/Exchange<br><input type="checkbox"/> 875 Customer Challenge 12 USC 3410<br><input type="checkbox"/> 890 Other Statutory Actions<br><input type="checkbox"/> 891 Agricultural Acts<br><input type="checkbox"/> 892 Economic Stabilization Act<br><input type="checkbox"/> 893 Environmental Matters<br><input type="checkbox"/> 894 Energy Allocation Act<br><input type="checkbox"/> 895 Freedom of Information Act<br><input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice<br><input type="checkbox"/> 950 Constitutionality of State Statutes |
| <b>REAL PROPERTY</b><br><input type="checkbox"/> 210 Land Condemnation<br><input type="checkbox"/> 220 Foreclosure<br><input type="checkbox"/> 230 Rent Lease & Ejectment<br><input type="checkbox"/> 240 Torts to Land<br><input type="checkbox"/> 245 Tort Product Liability<br><input type="checkbox"/> 290 All Other Real Property  | <b>CIVIL RIGHTS</b><br><input type="checkbox"/> 441 Voting<br><input checked="" type="checkbox"/> 442 Employment<br><input type="checkbox"/> 443 Housing/Accommodations<br><input type="checkbox"/> 444 Welfare<br><input type="checkbox"/> 445 Amer. w/Disabilities - Employment<br><input type="checkbox"/> 446 Amer. w/Disabilities - Other<br><input type="checkbox"/> 440 Other Civil Rights  | <b>PRISONER PETITIONS</b><br><input type="checkbox"/> 510 Motions to Vacate Sentence<br><b>Habeas Corpus:</b><br><input type="checkbox"/> 530 General<br><input type="checkbox"/> 535 Death Penalty<br><input type="checkbox"/> 540 Mandamus & Other<br><input type="checkbox"/> 550 Civil Rights<br><input type="checkbox"/> 555 Prison Condition  |  |   |

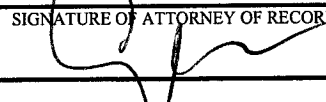
| V. ORIGIN (Place an "X" in One Box Only)                  |   |  |   |  |   |  |
|---|---|--|---|--|---|--|
| <input checked="" type="checkbox"/> 1 Original Proceeding | <input type="checkbox"/> 2 Removed from State Court | <input type="checkbox"/> 3 Remanded from Appellate Court | <input type="checkbox"/> 4 Reinstated or Reopened | <input type="checkbox"/> 5 Transferred from another district (specify) _____ | <input type="checkbox"/> 6 Multidistrict Litigation | <input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judgment |

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

**VI. CAUSE OF ACTION** Brief description of cause: Unlawful retaliation pursuant to Title VII, 42 U.S.C. §2000e-3(a)

|                                     |  |                        |   |
|-------------------------------------|--|------------------------|---|
| <b>VII. REQUESTED IN COMPLAINT:</b> | <input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 | <b>DEMAND \$</b> _____ | CHECK YES only if demanded in complaint:<br><b>JURY DEMAND:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
|-------------------------------------|--|------------------------|---|

|   |   |
|---|---|
| <b>VIII. RELATED CASE(S) PENDING OR CLOSED</b> (See instructions) | <b>JUDGE</b> _____ <b>DOCKET NUMBER</b> _____ |
|---|---|

|                            |  |
|----------------------------|--|
| <b>DATE</b> <u>2/05/07</u> | <b>SIGNATURE OF ATTORNEY OF RECORD</b>  |
| <b>FOR OFFICE USE ONLY</b> |  |

|           |                      |              |       |            |
|-----------|----------------------|--------------|-------|------------|
| RECEIPT # | AMOUNT <u>350.00</u> | APPLYING IFP | JUDGE | MAG. JUDGE |
|-----------|----------------------|--------------|-------|------------|

AB000383